

House Resolution 48 - Introduced

HOUSE RESOLUTION NO. 48

BY SHAW, ALONS, DE BOEF, MASSIE, and PEARSON

1 A Resolution impeaching Supreme Court Chief Justice
2 Mark S. Cady for malfeasance in office.

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That
4 Supreme Court Chief Justice Mark S. Cady is impeached
5 for malfeasance in office, and that the following
6 article of impeachment be exhibited and presented to
7 the Senate:

8 That Supreme Court Chief Justice Mark S. Cady in
9 violation of his constitutional oath undertaken before
10 taking office to support the Constitution of the United
11 States and the Constitution of the State of Iowa, has
12 committed malfeasance in office through his action to
13 sanction marriage between persons of the same sex in
14 the Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009), ruling
15 issued on April 3, 2009, by the following conduct:

16 ARTICLE I

17 By unconstitutionally exercising functions properly
18 belonging to the legislative and executive departments
19 as follows:

20 (1) By his action in the Varnum case, Chief Justice
21 Cady improperly assumed the function and role of an
22 elected legislator by ordering that the language in
23 Iowa Code section 595.2 limiting civil marriage to a
24 man and a woman must be stricken from the statute as
25 enacted by the legislative department and approved by
26 the governor of the executive department in 1998.

27 (2) By his action in the Varnum case, Chief Justice
28 Cady knowingly and intentionally usurped the proper

1 function delegated solely and exclusively to the
2 legislative department of declaring public policy,
3 through his judicial declaration of a new public policy
4 contrary to long-standing public policy acknowledged
5 by society and established in Iowa Code section 595.2,
6 subsection 1.

7 (3) By his action in the Varnum case, Chief Justice
8 Cady has improperly required the executive department
9 to issue marriage licenses to parties of the same sex
10 in direct contravention of Iowa Code section 595.2.

11 (4) By his action in the Varnum case, Chief Justice
12 Cady has created a constitutional crisis regarding the
13 enforcement of the Varnum ruling by allowing different
14 interpretations of the definition of marriage to
15 exist indefinitely within the separate departments of
16 government, leaving the people with no immediate remedy
17 to address this crisis.

18 (5) By his action in the Varnum case, Chief Justice
19 Cady has created a constitutional imbalance and
20 confusion within the State of Iowa as to the proper
21 constitutional function of each department, thus
22 undermining the integrity of the tripartite separation
23 of powers among the departments and creating social
24 disorder and unrest.

25 BE IT FURTHER RESOLVED BY THE HOUSE, That the
26 conduct of Supreme Court Chief Justice Mark S. Cady, in
27 committing malfeasance in office, warrants impeachment,
28 trial by the Senate, and removal and disqualification
29 from any office of honor, trust, or profit under the
30 state pursuant to the procedures set out in Iowa Code

1 chapter 68.